

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	1:21-mj-01365-SCY
)	
DOMINIC T THOMAS,)	
)	
Defendant.)	

**UNOPPOSED MOTION FOR PSYCHOLOGICAL EVALUATION
AND FOR PAYMENT UNDER THE CRIMINAL JUSTICE ACT**

Defendant Dominic T. Thomas, by and through his counsel of record, Todd J. Bullion, hereby moves the Court for an Order allowing a psychological evaluation of the Defendant be conducted by an expert chosen by Defendant, Dr. Susan Cave, and as grounds for said motion, Defendant states as follows:

Mr. Thomas is charged by Complaint with Criminal Damage to Property via the Assimilative Crimes Act, and violations of 36 CFR 1.5(f)(Superintendent's closure violation) and 36 CFR 2.13(a)(3)(Lighting fire in a manner that threatens, causes damage to, or results in the burning of property, real property or park resources, or creates a public safety hazard).

18 USCS § 4241 allows for a Court to Order a psychological examination and report. 18

USCS § 4242 (a)(b)(c) provides:

(a) Motion to determine competency of defendant. – At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, or at any time after the commencement of probation or supervised release and prior to completion of the sentence, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

(b) Psychiatric or psychological examination and report – Prior to the date of the hearing, the court may order that a psychiatric and psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

(c) Hearing – The hearing shall be conducted pursuant to the provisions of section 4247(d).

In order to provide adequate representation to Mr. Thomas, counsel needs to initially determine if he is competent. Following several attorney client phone calls with Mr. Thomas counsel has a good faith belief that Mr. Thomas is currently suffering from an untreated mental health condition which substantially impairs his ability to comprehend the proceedings in the instant case. His understanding of the role of the government attorney, judge, and defense counsel in the instant case are also questionable. Mr. Thomas is also at present not able to effectively assist in his own defense.

It would be in the best interests of justice to order a full competency evaluation of Mr. Thomas. This competency information can be derived from a courtordered psychological evaluation in order to receive a comprehensive report.

§ 4247 (c) governs the contents of the psychiatric or psychological report and provides in pertinent part:

A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

- (1) the person's history and present symptoms;
- (2) a description of the psychiatric, psychological, and medical tests that were employed and their results;
- (3) the examiner's findings; and
- (4) the examiner's opinions as to diagnosis, prognosis, and—

(F) if the examination is ordered as a part of a presentence investigation, any recommendation the examiner may have as to how the mental condition of the defendant should affect the sentence.

Mr. Thomas is indigent and his counsel has been appointed by the Court pursuant to the Criminal Justice Act. Defendant therefore seeks this Court's prior authorization to Dr. Susan

Cave for purposes of conducting the psychological evaluation of Defendant. Assistant United States Attorney Rumaldo Armijo does not oppose this motion.

WHEREFORE, Defendant Dominic T. Thomas respectfully requests this Court to grant his motion and order a psychological evaluation by Dr. Susan Cave and for authorization of payment of the expert through Criminal Justice Act funds.

Respectfully submitted,

/s/ Todd J. Bullion
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I hereby certify that a true and correct copy of the foregoing was electronically submitted this 13th day of October, 2021 to:

Rumaldo Armijo
Assistant United States Attorney

/s/ Todd J. Bullion
Todd J. Bullion